

December 12, 2018

Devin Leary  
Human and Rohde Incorporated  
512 Virginia Avenue  
Towson, MD 21286

Re: Amos Property (431 Back River Neck Road)  
Critical Area Administrative Variance  
Tracking Number 07-18-2816

Dear Mr. Leary:

The Department of Environmental Protection and Sustainability (EPS) has received your variance request to impact 580 square feet of the 35-foot setback to the Critical Area Easement to allow construction of new single family dwelling. The Director of EPS may grant a variance to the Chesapeake Bay Critical Area regulations in accordance with regulations adopted by the Critical Area Commission concerning variances as set forth in COMAR 27.01.11. There are five (5) criteria listed in COMAR 27.01.11 that shall be used to evaluate the variance request. All five of the criteria must be met in order to approve the variance.

The first criterion requires that special conditions exist that are peculiar to the land or structure and that literal enforcement of the regulations would result in unwarranted hardship. Development of the property will result in the establishment of a 3.6-acre Critical Area Easement (CAE) that will occupy the majority of the 4.3-acre property. The lot is approximately 120 feet wide for the first 300 feet but then widens to almost 400 feet in the center and rear of the lot. Nearly the entire center and rear of the property is forested with wetlands and the wetlands continue along the property line to the front of the lot. The existing house on the lot was recently razed to allow construction of a more modern home. Given the extent of the wetlands and forest onsite and the irregular shape of the lot, it is nearly impossible to construct a home on the property without impacting the 35-foot setback to the CAE. Therefore, the first criterion is met.

The second criterion requires that a literal enforcement of the regulations would deprive the applicant of rights commonly enjoyed by other properties in similar areas within the Critical Area. There are many properties in Baltimore County with extensive forest and wetlands onsite that require variances for new home construction. Our office has approved these variances in the past and will continue to evaluate them in the future. Therefore, this criterion is met.

The third criterion requires that granting of a variance will not confer upon an applicant any special privilege that would be denied to other lands or structures within the Critical Area. Granting of this variance will not confer upon the applicant any special privilege that would be denied to other lands or structures within the Critical Area. Other property owners in the neighborhood whose proposed house construction was limited by the forest and wetlands onsite would be given the same consideration to build within the 35-foot setback to the CAE. Therefore, this criterion has been met.

The fourth criterion requires that a variance is not based upon conditions or circumstances which are the result of actions by the applicant, nor does the request arise from any condition relating to land or building use, either permitted or non-conforming, on any neighboring property. This property was established prior to the effective date of the Chesapeake Bay Critical Area Regulations. The need for the variance is a result of the limited building space available on the property due to the irregular shape of the lot and the extent of forest and wetlands onsite. The dwelling has not been constructed. Therefore, the fourth criterion has been met.

The fifth criterion requires that granting of the variance will not adversely affect water quality or adversely impact fish, wildlife, or plant habitat within the Critical Area, and that the granting of the variance will be in harmony with the general spirit and intent of the Critical Area regulations. Construction of the new home and compliance with the Critical Area Regulations will result in the establishment of a CAE to protect the forest, wetlands, and streams on the property. In addition, development of the site will result in the planting of 258 Maryland native trees in a previously cleared area and an open area adjacent to the existing forest and wetlands. No existing trees will be removed and no wetland or stream buffer impacts will result from the proposed variance. As a result, granting of this variance will not adversely affect water quality, or adversely impact fish, wildlife, or plant habitat.

Based upon our review, this Department finds that the five above criteria have been met. Therefore, the requested variance is hereby approved in accordance with Section 33-2-205 of the Baltimore County Code with the following conditions:

1. The following note must appear on all subsequent plans:

“A variance was granted on December 12, 2018 by the Baltimore County Department of Environmental Protection and Sustainability from certain requirements of the Critical Area Regulations.”

2. The Critical Area Management Plan must be revised to reflect the note above.

It is the intent of this Department to approve this variance subject to the above conditions. Changes in site layout may require submittal of revised plans and an amended variance request.

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Please sign the statement on the following page and then return the signed, original letter to this Department c/o Ms. Patricia M. Farr of Environmental Impact Review. Failure to return a signed copy of this letter may result in delays in processing of permits or other development plans for the subject property, and/or may render this variance null and void.

If you have questions regarding this project, please contact Gris Batchelder at 410-887-3980.

Sincerely,

David Lykens  
Acting Director

cc: Ms. Claudia Jones, Critical Area Commission

We have read and agree to implement the above requirements to bring our property into compliance with Chesapeake Bay Critical Area regulations.

_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Printed Name	_____ Date	_____ Printed Name	_____ Date